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09/374,598	08/13/1999	JAN HENDRIK MENSEN	026988-000220US	3958

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EXAMINER
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TRAN, HANH VAN

ART UNIT	PAPER NUMBER
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3637

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/374,598	<b>Applicant(s)</b> MENSEN, JAN HENDRIK	
	<b>Examiner</b> HANH V. TRAN	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-77 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-23, 41, 42, 44 and 67-76 is/are allowed.
- 6) ☒ Claim(s) 24-40, 43, 45-66 and 77 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This is a Non-Final Office action in response to Applicant's Supplemental Amendment filed on 3/10/2009. Any inconvenience is greatly regretted.

#### ***Reissue Applications***

1. Claims 24-40, 43, 45-66, and 77 are rejected under 35 U.S.C. 251 of the "recapture rule" with respect to patented file application 08/262,505, now U.S. Patent 5,657,600, as being improperly broadened in a reissue application. A claim is broader in scope than the original claims if it contains within its scope any conceivable product or process which would have infringed the original patent. A claim is broadened if it is broader in any one respect even though it may be narrower in other respects.

2. The "recapture rule," prevents a patentee from regaining, through a reissue patent, subject matter that the patentee surrendered in an effort to obtain allowance of claims in the patent sought to be reissued. *In re Clement*, 131 F.3d 1464, 1468, 45 USPQ2d 1161, 1164 (Fed. Cir. 1997).

*Clement* discusses a three-step test for analyzing recapture:

Step 1 involves a determination of whether and in what aspect any claims sought to be reissued are broader than the patent claims.

Step 2 involves a determination of whether the broader aspects of the reissue application claims relate to surrendered subject matter.

Step 3 is applied when the broadening relates to surrendered subject matter and involves a determination whether the surrendered subject matter has crept into the reissue application claim.

Substep (3): if the reissue claim is broader in some aspects, but narrower in others, then:

(a) if the reissue claim is as broad as or broader in an aspect germane to a prior art rejection, but narrower in another aspect completely unrelated to the rejection, the recapture rule bars the claim;

(b) if the reissue claim is narrower in an aspect

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germane to [a] prior art rejection, and broader in an aspect unrelated to the rejection, the recapture rule does not bar the claim, but other rejections are possible.

The Federal Circuit in *North American Container, Inc. v. Plastipak Packaging, Inc.*, 415 F.3d at 1350, 75 USPQ2d 1545 (Fed. Cir. 2005) further refined Substep (3)(a) of *Clement* to define "broader in an aspect germane to a prior art rejection" to mean broader with respect to a specific limitation

- (1) added to overcome prior art in prosecution of the application which matured into the patent sought to be reissued and
- (2) eliminated in the reissue application claims.

"Surrendered subject matter" is defined in connection with prosecution history estoppel in *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 535 U.S. 722, 733-34, 122 S. Ct. 1831, 1838, 62 USPQ2d 1705, 1710-11 (2002). A patentee's decision to narrow his claims through amendment "may be presumed to be a general disclaimer of the territory between the original claim and the amended claim." *Exhibit Supply*, 315 U.S., at 136-137, 62 S. Ct. 513. "...in determining whether 'surrender' of subject matter has occurred, the proper inquiry is whether an objective observer viewing the prosecution history would conclude that the purpose of the patentee's amendment or argument was to overcome prior art and secure the patent." *Kim v. ConAgra Foods, Inc.*, 465 F.3d 1312, 1323, 80 USPQ2d 1495, 1502 (Fed. Cir. 2006).

A further opinion, *Ex parte Eggert*, 67 USPQ2d 1716 (BPAI 2003), issued by the Board of Appeals and Interferences as a precedential opinion, is also part of the recapture precedent applicable to proceedings before the United States Patent & Trademark Office (USPTO). *Eggert* was entered on May 29, 2003, prior to the Federal Circuit's *North American Container* decision. In *Eggert* the majority held that the surrendered subject matter was the rejected claim **only** rather than the amended portion of the issued claim.

A published precedential opinion of the Board is binding unless the views expressed in an opinion in support of the decision, among a number of things, are inconsistent with a decision of the Federal Circuit. In this case, the majority view in *Eggert* is believed to be inconsistent with the subsequent Federal Circuit decision in *North American Container* with respect to the principles governing application of Substep (3)(a) of *Clement*. See: *Ex parte Franklin C. Bradshaw and Thomas L. Soderman*, (Appeal 2006-2744 Bd. Pat. App. & Int. July 19, 2007) (available in Application 09/664,794 and at <http://www.uspto.gov/web/offices/dcom/bpai/its/fd062744.pdf>); *Ex parte Raanan Liebermann*, (Appeal 2007-0012 Bd. Pat. App. & Int. May 2007) (available in Application 09/603,247 and at <http://www.uspto.gov/web/offices/dcom/bpai/its/fd070012.pdf> );

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*Ex parte Willibald Kraus* (Appeal 2005-0841 Bd. Pat. App. & Int. April 2005) (available in Application 08/230,083 and at <http://www.uspto.gov/web/offices/dcom/bpai/its/fd050841.pdf> )

As set forth in the above BPAI decisions, based on *North American Container* and other court decisions, surrendered subject matter is considered the subject matter of an application claim which was amended or canceled and, on a limitation-by-limitation basis, the territory falling between the scope of

- (a) the application claim which was canceled or amended and
- (b) the patent claim which was ultimately issued.

Accordingly, the "surrendered subject matter" that may not be recaptured through reissue should *be presumed* to include subject matter broader than the patent claims in a manner directly related to

- (1) limitations added to the claims by amendment (either by amending an existing claim or canceling a claim and replacing it with a new claim with that limitation) to overcome a patentability rejection and
- (2) limitations argued to overcome a patentability rejection without amendment of a claim.

However, when reissue claims are narrower than the patent claims with respect to features other than the surrender generating feature, then the reissue claims may be materially narrowed relative to the claims prosecuted and issued in the patent, thereby avoiding the recapture rule.

As explained in *Hester Industries, Inc. v Stein, Inc.*, 142 F.3d 1472, 1480, 46 USPQ2d 1641, 1647 (Fed. Cir. 1998), the recapture rule is avoided when two conditions are satisfied. First, an aspect of the invention must have been overlooked (e.g., not claimed) during patent prosecution. Second, the reissue claim must have been materially narrowed with respect to this overlooked aspect of the invention.

In summary, the recapture rule is avoided if the reissue claim was materially narrowed in other respects compared to its broadening surrendered aspect. A reissue claim is materially narrowed and thus avoids the recapture rule when limited to aspects of the invention:

- (1) which had not been claimed and thus were overlooked during prosecution of the original patent application; and
- (2) which patentably distinguish over the prior art.

### **Prosecution History:**

In the original application for patent (08/262,505), which matured into US patent No. 5657600, the following limitations were highlighted by Applicant in Applicant's

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remarks submitted on September 25, 1995 (paper no. 6), as independently of one another, distinguishing over the prior art of record:

**Limitation A**: “a series of first narrow bracing members extending from positions adjacent a mid-point of said narrow strip member to positions spaced a short distance from the ends of said end plates”

**Limitation B**: “wherein said top of one of said panel is substantially thicker than the bottom thereof, said outer surface of said one panel is profiled to extend outwardly and upwardly from said bottom thereof to said top thereof, and wherein said inside surface of said thicker part is partially cut away in areas spaced from said bridging members”

**Surrendered Subject Matter:**

Because of Applicant’s argument submitted on September 25, 2005 (paper no. 6) in the original application for patent (08/262,505) to overcome an art rejection in the patented filed, the patented file has surrendered any claims drawn to a building component **not** containing either of the above **Limitation A**, or **Limitation B**.

**Application of the Recapture Rule:**

I. **Claim 24** contains a broadened form of **Limitation B** as “wherein said outer surface of said first panel is profiled to extend outwardly and upwardly from said bottom thereof to said top thereof to define a supporting shelf”. A review of new independent claim 24 indicates that it is broader than patented claim 13 because claim 24 fails to recite “**wherein said top of one of said panel is substantially thicker than the bottom thereof, and wherein said inside surface of said thicker part is partially**

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**cut away in areas spaced from said bridging members."** Thus, claim 24 is being improperly broadened in a reissue application.

II. **Claim 43** contains a broadened form of **Limitation B** as "wherein a portion of said outer surface of said first panel extends at an obtuse angle with respect to the bottom portion such that building material poured into said space flows into said cavities to form with said first panel a supporting shelf". A review of new independent claim 43 indicates that it is broader than patented claim 13 because claim 43 fails to recite **"wherein said top of one of said panel is substantially thicker than the bottom thereof, and wherein said inside surface of said thicker part is partially cut away in areas spaced from said bridging members."** Thus, claim 43 is being improperly broadened in a reissue application.

III. **Claim 45** contains a broadened form of **Limitation B** as "wherein said outer surface of said third panel comprises a portion profiled to extend outwardly and upwardly relative to the vertical and defines with said fourth panel a second space in fluid communication with said first space, and said second space includes a cavity defined by said third panel and said partitions, said cavity having a width at the top thereof that is substantially greater than the panel thickness at the bottom of said third panel". A review of new independent claim 45 indicates that it is broader than patented claim 13 because claim 45 fails to recite **"wherein said top of one of said panel is substantially thicker than the bottom thereof, and wherein said inside surface of said thicker part is partially cut away in areas spaced from said bridging members."** Thus, claim 45 is being improperly broadened in a reissue application.

IV. **Claim 46** contains a broadened form of **Limitation B** as “wherein said first insulating foam panel includes a first part having a first width and a second part having a second width, said second width being greater than said first width to define a supporting shelf, said first panel including a third part intermediate said first and second parts, said third part being profiled to extend outwardly and upwardly relative to the first part”. A review of new independent claim 46 indicates that it is broader than patented claim 13 because claim 46 fails to recite **“wherein said top of one of said panel is substantially thicker than the bottom thereof, and wherein said inside surface of said thicker part is partially cut away in areas spaced from said bridging members.”** Thus, claim 46 is being improperly broadened in a reissue application.

#### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, (1) the limitations in claim 45 of four foam panels (drawings shown just two parallel foam panels), and (2) either the limitations in claim 46 of “wherein said first insulating foam panel includes a first part having a first width and a second part having a second width, said second width being greater than said first width to define a supporting shelf, said first panel including a third part intermediate said first and second parts” or the limitation in claim 54, which depends on claim 46, of “said first panel further includes at least two members extending inwardly from said first panel inner surface, each of said extending members having a top portion, a bottom portion and an intermediate portion extending therebetween, said top portion being substantially thicker than said bottom portion” must



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be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. Claims 24-25, 34-37, 39-40, 43, 45-49, 52-53, 60-63, 65-66, and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 4,884,382 to Horobin in view of USP 1,071,467 to Savage.

In regard to claim 24 and its depending claims, Horobin discloses a building component comprising all the elements recited in the above listed claims including first and second insulating foam panels (12,14), such as shown in Fig 1, each having inner and outer surfaces, a top and a bottom, said panels being arranged to define a space therebetween for receiving pourable building material; at least two bridging members (18) extending between and connecting said panels, the outer surface of the first panel including a lower vertical part, an upper vertical part, and an intermediate part connecting said lower and upper parts. wherein said bridging members are molded into said first and second panels once concrete is poured within said space. In regard to claims 35-37, Horobin discloses that the bridging members include a pair of end plates (62), wherein one of the end plates abuts the outer surface of one of the first and second panels (such as shown in Fig 3), said bridging members are formed integrally from one piece of material and disposed symmetrically about a vertical axis. The

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differences being that Horobin fails to disclose the outer surface of the first panel being profiled to extend outwardly and upwardly from the bottom thereof to said top thereof to define a supporting shelf, the intermediate part of the outer surface being angled relative to the vertical parts, or the outer surface of the first panel comprising a portion extending at an obtuse angle relative to the vertical.

Savage teaches the idea of providing a building component comprising first and second insulating panels (such as shown in Fig 2) being arranged to define a space therebetween for receiving pourable building material, at least two bridging members 9 extending between and connecting said panels, wherein the outer surface of the first panel is profiled to extend outwardly and upwardly (i.e., element 12 shown in Fig 2) from the bottom thereof to said top thereof to define a supporting shelf, the intermediate part of the outer surface being angled relative to the vertical parts, or the outer surface of the first panel comprising a portion extending at an obtuse angle relative to the vertical; wherein the outwardly and upwardly extending portion of the panel provides a shelf for supporting components thereon. Therefore, it would have been obvious, in view of the teaching of Savage, to modify the structure of Horobin by providing the outer surface of the first panel is profiled to extend outwardly and upwardly from the bottom thereof to said top thereof to define a supporting shelf, the intermediate part of the outer surface being angled relative to the vertical parts, or the outer surface of the first panel comprising a portion extending at an obtuse angle relative to the vertical; wherein the outwardly and upwardly extending portion of the panel provides a shelf for supporting

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components thereon, since both teach alternate conventional building component structure, used for the same intended purpose, thereby providing structure as claimed.

In regard to claim 43, Horobin discloses first and second high density foam panels (12,14) each having inner and outer surfaces, a top portion and a bottom portion, said panels arranged to define a space therebetween for receiving pourable building material, at least two partitions (26) extending from said inner surface of said first panel to form cavities integral with said space, each partition comprising a bridging member (18) extending therebetween and connecting said panels. The differences being that Horobin fails to disclose a portion of the outer surface of the first panel extends at an obtuse angle with respect to the bottom portion such that building material poured into said space flows into said cavities to form with said first panel a supporting shelf.

Savage teaches the idea of providing a building component comprising first and second insulating panels (such as shown in Fig 2) being arranged to define a space therebetween for receiving pourable building material, at least two bridging members 9 extending between and connecting said panels, wherein a portion of the outer surface of the first panel extends at an obtuse angle with respect to the bottom portion; wherein the obtuse portion of the panel provides a shelf for supporting components thereon such that building material poured into said space flows into said cavities to form with said first panel said supporting shelf. Therefore, it would have been obvious, in view of the teaching of Savage, to modify the structure of Horobin by providing a portion of the outer surface of the first panel extends at an obtuse angle with respect to the bottom portion such that building material poured into said space flows into said cavities to form

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with said first panel a supporting shelf for supporting components thereon, since both teach alternate conventional building component structure, used for the same intended purpose, thereby providing structure as claimed.

In regard to claim 45, Horobin disclose an insulated wall formed from a pourable building material comprising all the elements recited in the claim including a first building component having a top and bottom and including first and second foam panels (12,14) each having inner surfaces, said first and second panels arranged in spaced parallel relationship defining a first space having a first width, and at least two bridging members (18) extending between and connecting said first and second panels, a second building component having a top and bottom and including third and fourth foam panels (12,14) each having a panel thickness, at least two panel connecting partitions (26) extending inwardly from said third panel, at least two second bridging members extending between and connecting said third panel to the fourth panel through said panel connecting partitions, said second space includes a cavity defined by said third panel and said partitions, said cavity having a width at the top thereof that is substantially greater than the panel thickness at the bottom of the third panel; once concrete is poured into the spaces, a wall having a width approximately equal to the first width and formed by building material received in said first and second spaces, a finger formed by building material received in said cavity, said finger defining with said third panel a supporting shelf, said shelf being integral with said wall. The differences being that Horobin fails to disclose the outer surface of the third panel comprising a portion profiled

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to extend outwardly and upwardly relative to the vertical and defining with said fourth panel a second space in fluid communication with said first space.

Savage teaches the idea of providing a building component comprising first and second insulating panels (such as shown in Fig 2) being arranged to define a space therebetween for receiving pourable building material, at least two bridging members 9 extending between and connecting said panels, wherein the outer surface of the first panel comprising a portion to extend outwardly and upwardly (i.e., element 12 shown in Fig 2) relative to the vertical and defining with the second panel a portion of said space and to define a supporting shelf for supporting components thereon. Therefore, it would have been obvious, in view of the teaching of Savage, to modify the structure of Horobin by providing the outer surface of the third panel comprising a portion profiled to extend outwardly and upwardly relative to the vertical and defining with said fourth panel a second space in fluid communication with said first space and to define a supporting shelf for supporting components thereon, since both teach alternate conventional building component structure, used for the same intended purpose, thereby providing structure as claimed.

In regard to claims 46, Horobin disclose a building component comprising first and second insulating foam panels (12,14) each having inner and outer surfaces, a top and a bottom, said panels being arranged to define a space therebetween for receiving pourable building material, at least two bridging members (18) extending between and connecting said panels, wherein said first insulating foam panel includes a first part having a first width and a second part having a second width and a third part

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intermediate said first and second parts. In regard to claims 52,53, Horobin disclose the inner surface of the first panel being partially cut away in areas (28) spaced from the bridging member (18), said cut away parts follow the profile of, but are spaced from, the outer surface of the first panel. In regard to claims 35-37, Horobin discloses that the bridging members include a pair of end plates (62), wherein one of the end plates abuts the outer surface of one of the first and second panels (such as shown in Fig 3), said bridging members are formed integrally from one piece of material and disposed symmetrically about a vertical axis. The differences being that Horobin fails to disclose the second width being greater than the first width to define a supporting shelf, the third part being profiled to extend outwardly and upwardly relative to the first part, the outer surface of the third part being angled relative to and joins said outer surfaces of the first and second parts, the outer surface of the third part being profiled to extend outwardly and upwardly at an obtuse angle relative to the outer surface of the first part.

Savage teaches the idea of providing a building component comprising first and second insulating panels (such as shown in Fig 2) being arranged to define a space therebetween for receiving pourable building material, at least two bridging members 9 extending between and connecting said panels, the first panel including a first part having a first width, a second part (horizontal portion of element 12) having a second width greater the first width to define a supporting shelf, a third part (curved portion of element 12) intermediate said first and second parts, said third part being profiled to extend outwardly and upwardly relative to the first part to define a supporting shelf for supporting components thereon. Therefore, it would have been obvious, in view of the

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teaching of Savage, to modify the structure of Horobin by providing the second width being greater than the first width to define a portion of a supporting shelf, the third part being profiled to extend outwardly and upwardly relative to the first part, the outer surface of the third part being angled relative to and joins said outer surfaces of the first and second parts, the outer surface of the third part being profiled to extend outwardly and upwardly at an obtuse angle relative to the outer surface of the first part to define a portion of the supporting shelf for supporting components thereon, since both teach alternate conventional building component structure, used for the same intended purpose, thereby providing structure as claimed.

***Allowable Subject Matter***

1. Claims 1-23, 41-42, 44, and 67-76 are allowed.

***Response to Arguments***

1. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.
2. In response to applicant's argument on pages 15-16 that the claims at issue have been materially narrowed by highlighting out certain limitations in claims 24, 43, 45 and 46, the examiner respectfully takes the position that each of said highlighted limitations is considered to be modifying an existing limitation. Modifying an existing limitation is not considered an "overlooked aspect" even though the modification itself had never been claimed.



***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shelton, Car et al, Lyons, Astorga, Conway, and Bryant all show structures similar to various elements of applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HANH V. TRAN whose telephone number is (571)272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Hanh V. Tran/

Primary Examiner, Art Unit 3637